

MICHAELINE A. RÉ

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**MICHAELINE A. RÉ**  
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June 17, 2013

United States Patent and Trademark Office  
Trademark Trial and Appeal Board  
Box- TTAB  
Fee  
P. O. Box 1451  
Arlington, VA 22313-1451

Re: Opposition to Application 85-596810

Dear Trademark Trial and Appeal Board:

Enclosed please find an original and one copy of our opposition to the above-captioned application.

Also enclosed is a check for \$600.00 to cover the filing fee.

Thank you for your anticipated help and cooperation in this matter.

Very truly yours,



Michaeline A. Ré

MAR:md  
enclosures

TTAB

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of trademark application Serial No. 85-596810  
For the mark SASSY MITCHELL  
Published in the Official Gazette on May 28, 2013

JOHN PAUL MITCHELL SYSTEMS, a  
California corporation,

Opposer,

v.

BIANCA T. RUSH,

Applicant.

Opposition No. \_\_\_\_\_

TTAB Fee: \$300/class, International Class 03 (Hair and Skin Care Preparations), U.S. classes 051 and 052, International Class 025 (Clothing), U.S. classes 022 and 039. Total Fee \$600.00.

Assistant Commissioner for Trademarks  
2900 Crystal Drive  
Arlington, Virginia 22202-3515

NOTICE OF OPPOSITION

John Paul Mitchell Systems, a California corporation with its principal office of business located at 20705 Centre Pointe Parkway, Saugus, California 91350.

To the best of opposer's knowledge, the name and address of the current applicant is Bianca T. Rush, located at 300 Shadow Glen, McDonough, Georgia, US 30253.

The above-identified opposer believes that it will be damaged by the above-identified registration and hereby opposes the same.

The grounds for opposition are as follows:

1. Likelihood of confusion with a registered or common law mark or trade name under

06/19/2013 SGNIM1

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600.00 OP



\*06-17-2013\*

U.S. Patent and Trademark Office #72

Section 2(d). Opposer is the owner of the mark PAUL MITCHELL®, U.S. Reg. No. 1,680,913, Serial No. 74-044295, and U.S. Reg. No. 2,969,643, Serial No. 76-596671, and said registrations have been in continuous use by the opposer since 1980 and the mark MITCH®, U.S. Reg. No. 4,036,167, Serial No. 85-119885 and said registration has been in continuous use by opposer since August 15, 2011.

2. John Paul Mitchell Systems is a manufacturer and distributor of hair care products, including hair shampoos, hair conditioners, creams, styling sprays, styling gels, lotions, permanent waves, hair color, and skin care products including liquid soaps, bar soaps, shaving gels and lotions.
3. John Paul Mitchell Systems has distributed PAUL MITCHELL® products in commerce in the United States been used continually for at least the past twenty years or earlier.
4. The mark MITCH® has been used for at least the last year or earlier in connection with the manufacture, sale and distribution of hair and skin care products promoted by opposer.
5. John Paul Mitchell Systems has established PAUL MITCHELL as a famous mark that is widely recognized by the general consuming public as a designation of the goods.
6. John Paul Mitchell Systems has established MITCH as a famous mark that is widely recognized by the general consuming public as a designation of the goods.
7. The mark being opposed contains the word MITCHELL, which is a trademark used in commerce exclusively and continuously by John Paul Mitchell Systems since February 1, 1980.
8. The mark being opposed contains the portion of the word MITCH, which is a trademark used in commerce exclusively and continuously by John Paul Mitchell Systems since August of 2011.
9. Bianca T. Rush's application, Serial No. 85596810 is filed on "Use" basis under Section 1(a) in International class 003, to identify Hair care preparations; Hair oils, Hair pomades; Hair rinses; Hair shampoo; Hair shampoos and conditioners; Hair styling preparations; Pomades for the hair, claiming use as early as 03/04/2011. In International class 025, to identify T-shirts in use since at least 04/01/2012.
10. John Paul Mitchell Systems' trademark PAUL MITCHELL has been continuously used to identify Hair care preparations; Hair oils, Hair pomades; Hair rinses; Hair shampoo; Hair shampoos and conditioners; Hair styling preparations; Pomades for the hair, and T-shirts since at least 1990 and earlier.
11. John Paul Mitchell Systems has sold millions of these products each year for at least the past 20 years or earlier.

12. John Paul Mitchell Systems has regularly advertised these products in magazines, on television, on its web site, through sponsorship of athletic events for the past twenty-five years.
13. John Paul Mitchell Systems' PAUL MITCHELL® is widely recognized by the general consuming public of the United States as a designation of source of the goods and services of the mark's owner and is a famous mark by virtue of (i) the duration, extent, and geographic reach of advertising and publicity of the mark, (ii) the amount, volume, and geographic extent of sales of goods or services offered under the mark and (iii) the extent of actual recognition of the mark. Trademark Law § 1125(A).
14. The applicant's mark SASSY MITCHELL is so similar to John Paul Mitchell Systems' famous mark that confusion of the two is likely, if not inevitable, among consumers in commerce.
15. Registration and use of SASSY MITCHELL by applicant would give rise to false designation of origin, and dilution by blurring and/or by tarnishment due to association arising from the similarity between SASSY MITCHELL and John Paul Mitchell Systems' famous mark PAUL MITCHELL that it would impair the distinctiveness of John Paul Mitchell Systems' famous mark. Trademark Law § 1125(B).
16. During the years when John Paul Mitchell Systems has used PAUL MITCHELL, it has acquired distinctiveness and customers clearly recognize PAUL MITCHELL as John Paul Mitchell Systems hair and skin care products, as they purchase the products repeatedly.
17. There is no association between Bianca T. Rush and John Paul Mitchell Systems.
18. John Paul Mitchell Systems has been selling its PAUL MITCHELL brand of products since 1980 and Bianca T. Rush only commenced selling its product in 2011, it is likely that Bianca T. Rush intended to create an association by consumers of hair care products John Paul Mitchell Systems' famous mark. Such an association would be false and misleading, and should not be permitted.

WHEREFORE, the Opposer prays that the application Serial No. 85-596810 be rejected, and that a Notice of Allowance should not be issued to applicant Bianca T. Rush, and the application pending under Serial No. 85-596810 for goods therein specified in International Class 003, U.S. classes 051 and 052 and International Class 025, U.S. classes 022 and 039, be denied and refused.

A duplicate copy of this Notice of Opposition and the fee required by Section 2.6(a) (17) are enclosed.

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Respectfully submitted,

By: \_\_\_\_\_ Date: June 6, 2013  
Michaeline A. Ré, Attorney of record, admitted in  
California State Bar, State Bar Number 77853

## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing opposition has been served upon the applicant on June 6, 2013 by depositing same in the United States Mail, first class postage prepaid, in an envelope addressed as follows:

Bianca T. Rush  
300 Shadow Glen  
McDonough, Georgia, USA 30253

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Michaeline A. Ré

Respectfully submitted,


By: Michael A. Ré Date: June 6, 2013  
Michaeline A. Ré, Attorney of record, admitted in  
California State Bar, State Bar Number 77853

Michaeline A. Ré  
100 E. Corson Street, 3<sup>rd</sup> Floor  
Pasadena, CA 91103  
Tel. 626 396-9230

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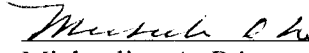
By: Michael A. Ré Date: June 6, 2013  
Michaeline A. Ré, Attorney of record, admitted in  
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